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ORIGINAL

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105-0007  
RECEIVED  
JUL 14 2005

July 13, 2005

Illinois Commerce Commission  
RAIL SAFETY SECTION

Mr. Michael J. Barron, Jr.  
Illinois Central Railroad Company  
17641 South Ashland Avenue  
Homewood, IL 60430-1345

Re: City of Neoga Proposed Railroad Crossing Closures

Dear Mr. Barron:

I have received responses to the first two interrogatories. By this letter, I seek to address some concerns regarding those responses as well as to continue discovery. Namely, I have the following requests:

1. Please revise responses to the interrogatory questions indicated below as requested;
2. Please coordinate with John M. Henriksen and Richard D. Payne to ensure that they will be available for individual depositions on Tuesday, July 26, 2005, at the law offices of Glenn Braden. Enclosed, please find two Notices of Deposition. If you and Mr. Henriksen are not available to attend at 9:00 a.m. or if you and Mr. Payne are not available at 11:00 a.m. on that date, please call;
3. Please respond to the enclosed Request for Documents; and
4. Please respond to the enclosed Third Set of Interrogatories.

Your timely responses are, as always, greatly appreciated!

Some of the responses to the First Set of Interrogatories were not as complete as I had hoped. Below I have tried to clarify these questions in hopes of receiving a more satisfactory answer.

Interrogatory #2 - This question was intended to include: Aside from generally reducing maintenance costs and potential liability, what are the distinct benefits to the railroad specific to the closing of any one crossing? What cost savings are connected with each benefit?

Interrogatory #4 - The reference to the answer in the Request to Admit does not answer this question. This question was intended to include: Why, during the late 1980's, did the ICRR convert "from a double main line in this area to a single main line with Centralized Traffic

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Control?" Furthermore, did the ICRR ever consider building the additional rail somewhere north of Neoga? If so why did they decide against it?

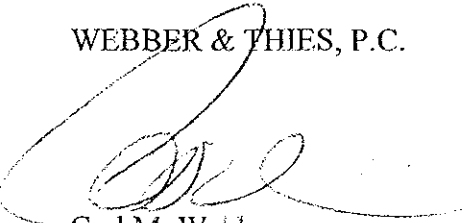
Interrogatories #9-10 - The responses to these questions were quite broad. For Interrogatory #9, please address each scenario separately and suggest the best proposed routes to be used by farm machinery, grain trucks and business vehicles in crossing the railroad tracks. Please do the same for Interrogatory#10, with respect to fire and emergency service vehicles.

Interrogatory #20 - Understanding that there are infinite possibilities with regard to the time a moving train could spend in front of an intersection, perhaps the ICRR would provide the City of Neoga with the maximum and average lengths of trains using these rails and the minimum speed at which a train could travel. If a minimum speed is not available, please provide the average minimum speed that such trains are known to travel. Note the new interrogatory: "How often and for how long is a train expected to block each intersection on a daily and on a monthly basis?"

Once again, your prompt response to these questions and your attention to the enclosed material are greatly appreciated. Please contact me with any concerns or questions. Thank You!

Very truly yours,

WEBBER & THIES, P.C.



Carl M. Webber

kr

cc: Glenn A. Braden

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>Illinois Central Railroad Company,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>TO5-0007</b>
	)	
<b>Neoga Township, the City of Neoga and</b>	)	
<b>the State of Illinois, Department of Transportation,</b>	)	
	)	
<b>Respondents.</b>	)	
	)	
<b>Petition of Illinois Central Railroad Company seeking an</b>	)	
<b>order of closure of the at-grade crossings of Cemetery</b>	)	
<b>Road/TR-67 (DOT 289 160P; railroad milepost 185 and</b>	)	
<b>TR-85 (DOT 289 161W; railroad milepost 185.65) and the</b>	)	
<b>Illinois Central Railroad Company's tracks, and an order of</b>	)	
<b>installation of automatic flashers and gates at the crossing of</b>	)	
<b>TR-85A (DOT 289 162D; railroad milepost 186.16) and the</b>	)	
<b>Illinois Central Railroad Company's tracks, all in Neoga</b>	)	
<b>Township, Cumberland County, Illinois.</b>	)	

**NOTICE OF DISCOVERY DEPOSITION**

To: Richard D. Payne, P.E., S.E. 2008 Linview Avenue P.O. Box 159 Urbana, IL 61803-0159	Area Wide Reporting Service 301 West White Champaign, IL 61820
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YOU ARE HEREBY NOTIFIED that the discovery deposition of RICHARD D. PAYNE will be taken before Area Wide Reporting Service on July 26, 2005, starting at 11:00 a.m. at the law offices of Glenn A. Braden, located at 189 East Sixth, P.O. Box 820, Neoga, IL 62447; said depositions to be taken in accordance with Supreme Court Rules.

RICHARD D. PAYNE: PLEASE BRING WITH YOU TO THE DEPOSITION any and all track charts, maps, correspondence, memoranda or documents relating to your knowledge of the current conditions of the Neoga tracks and crossings, which are the subject of the above-

entitled cause, the proposed improvements, and the needs and benefits of the proposed changes.

CITY OF NEOGA,  
Respondents

By: 

Carl M. Webber (ARDC No. 2954737)

### Certificate of Service

The undersigned hereby certifies that he served a copy of the foregoing NOTICE OF DISCOVERY DEPOSITION by enclosing the same in an envelope plainly addressed to:

Richard D. Payne, P.E., S.E.  
2008 Linview Avenue  
P.O. Box 159  
Urbana, IL 61803-0159

Area Wide Reporting Service  
301 West White  
Champaign, IL 61820

and depositing the same in the United States mail box in Urbana, Illinois, with postage duly affixed and prepaid, on July 13, 2005.

  
Carl M. Webber (ARDC No. 2954737)

Carl M. Webber  
WEBBER & THIES, P.C.  
202 Lincoln Square  
PO Box 189  
Urbana, IL 61803-0189  
Telephone: (217) 367-1126  
Facsimile: (217) 367-3752

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

<b>Illinois Central Railroad Company,</b>	)	
	)	
<b>Petitioner,</b>	)	
	)	
<b>v.</b>	)	<b>TO5-0007</b>
	)	
<b>Neoga Township, the City of Neoga and</b>	)	
<b>the State of Illinois, Department of Transportation,</b>	)	
	)	
<b>Respondents.</b>	)	
	)	
<b>Petition of Illinois Central Railroad Company seeking an</b>	)	
<b>order of closure of the at-grade crossings of Cemetery</b>	)	
<b>Road/TR-67 (DOT 289 160P; railroad milepost185 and</b>	)	
<b>TR-85 (DOT 289 161W; railroad milepost 185.65) and the</b>	)	
<b>Illinois Central Railroad Company's tracks, and an order of</b>	)	
<b>installation of automatic flashers and gates at the crossing of</b>	)	
<b>TR-85A (DOT 289 162D; railroad milepost 186.16) and the</b>	)	
<b>Illinois Central Railroad Company's tracks, all in Neoga</b>	)	
<b>Township, Cumberland County, Illinois.</b>	)	

**NOTICE OF DISCOVERY DEPOSITION**

<b>To: John M. Henriksen</b>	<b>Area Wide Reporting Service</b>
<b>1221 Croydon</b>	<b>301 West White</b>
<b>Geneva, IL 60134</b>	<b>Champaign, IL 61820</b>

Mr. Michael J. Barron, Jr.  
Illinois Central Railroad Company  
17641 South Ashland Avenue  
Homewood, IL 60430-1345

YOU ARE HEREBY NOTIFIED that the discovery deposition of JOHN M. HENRIKSEN will be taken before Area Wide Reporting Service on July 26, 2005, starting at 9:00 a.m. at the law offices of Glenn A. Braden, located at 189 East Sixth, P.O. Box 820, Neoga, IL 62447; said depositions to be taken in accordance with Supreme Court Rules.

JOHN M. HENRIKSEN: PLEASE BRING WITH YOU TO THE DEPOSITION any and all track charts, maps, correspondence, memoranda or documents relating to your knowledge of the current conditions of the Neoga tracks and crossings, which are the subject of the above-entitled cause, the proposed improvements, and the needs and benefits of the proposed changes.

CITY OF NEOGA,  
Respondents

By: 

Carl M. Webber (ARDC No. 2954737)

### Certificate of Service

The undersigned hereby certifies that he served a copy of the foregoing NOTICE OF DISCOVERY DEPOSITION by enclosing the same in an envelope plainly addressed to:

John M. Henriksen  
1221 Croydon  
Geneva, IL 60134

Area Wide Reporting Service  
301 West White  
Champaign, IL 61820

Mr. Michael J. Barron, Jr.  
Illinois Central Railroad Company  
17641 South Ashland Avenue  
Homewood, IL 60430-1345

and depositing the same in the United States mail box in Urbana, Illinois, with postage duly affixed and prepaid, on July 13, 2005.

  
Carl M. Webber (ARDC No. 2954737)

Carl M. Webber  
WEBBER & THIES, P.C.  
202 Lincoln Square  
PO Box 189  
Urbana, IL 61803-0189  
Telephone: (217) 367-1126  
Facsimile: (217) 367-3752

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

**Illinois Central Railroad Company,**

**Petitioner,**

**v.**

**Neoga Township, the City of Neoga and  
the State of Illinois, Department of Transportation,**

**Respondents.**

**Petition of Illinois Central Railroad Company seeking an  
order of closure of the at-grade crossings of Cemetery  
Road/TR-67 (DOT 289 160P; railroad milepost 185 and  
TR-85 (DOT 289 161W; railroad milepost 185.65) and the  
Illinois Central Railroad Company's tracks, and an order of  
installation of automatic flashers and gates at the crossing of  
TR-85A (DOT 289 162D; railroad milepost 186.16) and the  
Illinois Central Railroad Company's tracks, all in Neoga  
Township, Cumberland County, Illinois.**

**TO5-0007**

**RESPONDENT'S SECOND REQUEST FOR PRODUCTION  
OF DOCUMENTS**

Respondent, **CITY OF NEOGA**, propounds the following request for production of documents upon **ILLINOIS CENTRAL RAILROAD COMPANY** to be responded to pursuant to Supreme Court Rule 214 within twenty eight (28) days of the date of service:

**Instructions for Answering**

1. Production can be accomplished by mailing the documents within the rule time to the undersigned trial attorney.

2. The documents requested for production include those in the possession, custody, or control of Defendant, its agents, representatives, and attorneys, as well as any person known to the Defendant to be claiming or exercising any right to control, possess or otherwise dispose of

any such documents.

3. Unless otherwise indicated, these requests refer to the time, place, and circumstances of the occurrences described in the Complaint. Except as otherwise expressly provided, definitions set forth in Plaintiff's First Set Of Interrogatories to you shall apply equally to this request for production.

4. The term "document(s)" refers to all writings of any kind, including the originals and all nonidentical copies, whether different from the original by reason of any notation made on such copies or otherwise, including without limitation correspondence; memoranda; notes; diaries; statistics; letters; materials; invoices; orders; directives; interviews; telegrams; minutes; reports; studies; statements; transcripts; summaries; pamphlets; books; interoffice and intraoffice communications; notations of any sort of conversations, telephone calls, meetings or other communications; bulletins; printed matter; teletype; telefax; worksheets; and all drafts, alterations, modifications, changes, and amendments of any of the foregoing; graphic or aural recordings or representations of any kind, including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, records, motion pictures; and electronic, mechanical, or electrical recordings or representations of any kind, including without limitation, tapes, cassettes, cartridges, discs, chips, and records.

5. Copies, if authenticated, of the original documents may be supplied in response.

6. Each request should be responded to separately; however, a document which is the response to more than one request may, if the relevant portion is so marked or indexed, be produced and referred to in a later response.

7. Each request refers to all documents that are either known by Defendant to exist or that can be located or discovered by reasonably diligent efforts by Defendant.

8. If the Defendant has any knowledge of any document or other item called for by this Request For Production which was but is no longer in his, her or its possession or control, said Defendant shall identify each such document or item and state the circumstances under which Defendant lost possession or control of it, including the last known location and the last known person having control.

9. Please note that Defendant is under a continuing duty, pursuant to Supreme Court Rule 214, to seasonably supplement the production with documents obtained or becoming known to the Defendant subsequent to the preparation and filing of its response to each Request.

10. Specific definitions relating to this Petition.

- (a) Illinois Central Railroad Company may be referred to herein as "ICRR".
- (b) The Illinois Commerce Commission may be referred to herein as "ICC".
- (c) The City of Neoga, a municipal corporation within the State of Illinois, may be referred to as "Neoga".



- (d) Neoga Township, a township in the County of Cumberland, State of Illinois, generally described as portions of T.10-11 N.-R.7-8E and T.10N.-R.7-8E., the township within which the requested closings are located, may be referred to as "Neoga Township".
- (e) United States Route 45 may be referred to as "Route 45".
- (f) County Road 1 which travels generally east and west into, through and out of Neoga may be referred to as "Trowbridge Road".
- (g) The Neoga Cemetery largely owned and operated by Neoga, which exists south of Neoga, may be referred to as "Cemetery".
- (h) County Roads 800, 850, 900 and 950, all of which cross the ICRR tracks to meet Route 45 may be referred to by reference to the number of each township road.
- (i) The railroad crossing at 950, identified by the railroad as "TR67" may be referred to as 950 crossing or TR67 crossing.
- (j) The railroad crossing at 900, identified by the railroad as "TR85" may be referred to as 900 crossing or TR85 crossing.
- (k) The railroad crossing at 850, identified by the railroad as "TR85A" may be referred to as 850 crossing or TR85A crossing.
- (l) Property owned by Michael P. O'Neil west of the ICRR tracks, north of 950 and the cemetery and south of Neoga shall be referred to as "O'Neil Property".
- (m) Property west of the ICRR tracks north of 900 and south of 950 owned by Everett Fearday shall be referred to as the "Fearday Property".
- (n) Property west of the ICRR tracks north of 850 and south of 900 owned by Clara Walk shall be referred to as the "Walk Property".
- (o) The requirement that in order to close a closing in an unincorporated area one must be able to drive from one side of the closed crossing to the other side of the closed crossing in no less than four miles may be referred to as the "Four Mile Rule".
- (p) The requirement that in order to close a closing in an incorporated area one must be able to drive from one side of the closed crossing to the other side of the closed crossing in no less than three quarters of a mile may be referred to as the "Quarter Mile Rule".

### Requests

REQUEST #1: Documents containing any survey, drawings, plats and data, including but not limited to horizontal and vertical control information relating to the proposed access roads suggested by the ICRR. This information should contain, among other information, the specific proposed locations of new access roads.

REQUEST #2: Documents containing any information, summaries, calculations, input and data referring to estimated, proposed and expected costs of the particular roads in these locations.

CITY OF NEOGA

By: 

Carl M. Webber (ARDC No. 2954737)

Carl M. Webber  
WEBBER & THIES, P.C.  
202 Lincoln Square  
Urbana, IL 61801  
Telephone: (217) 367-1126  
Facsimile: (217) 367-3752

**STATE OF ILLINOIS  
ILLINOIS COMMERCE COMMISSION**

Illinois Central Railroad Company,	)	
	)	
Petitioner,	)	
	)	
v.	)	TO5-0007
	)	
Neoga Township, the City of Neoga and	)	
the State of Illinois, Department of Transportation,	)	
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Petition of Illinois Central Railroad Company seeking an	)	
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Illinois Central Railroad Company's tracks, and an order of	)	
installation of automatic flashers and gates at the crossing of	)	
TR-85A (DOT 289 162D; railroad milepost 186.16) and the	)	
Illinois Central Railroad Company's tracks, all in Neoga	)	
Township, Cumberland County, Illinois.	)	

**THIRD SET OF INTERROGATORIES**

Respondent, **CITY OF NEOGA**, by Webber & Thies, P.C., his attorneys, propounds the following Interrogatories to be answered by **ILLINOIS CENTRAL RAILROAD COMPANY**, Petitioner, in writing, under oath, and within twenty-eight (28) days after service of these Interrogatories, in accordance with Supreme Court Rule 213:

**DEFINITIONS AND EXPLANATORY NOTES**

A. "Person" or "persons" shall include natural persons, corporations, partnerships, or other business associations.

B. "Document" means any written, printed, typed, or other graphic matter of any kind or nature, including drafts and copies bearing notations or marks not found on the original, and including, but not limited to, all memoranda, reports, notes, letters, envelopes, telegrams, messages

(including reports, notes, and memoranda of telephone conversations and conferences), books, articles, magazines, newspapers, bulletins and notices, purchase orders, invoices, questionnaires and surveys, charts, graphs, photographs, tapes, recordings, punch cards, and other forms of electronically, electrically, or mechanically stored data compilations from which information can be obtained (transformed, if necessary, by the Plaintiff into physical, visually usable form).

C. "Identify", "identification" or "state the identity of" means:

(i) When used with reference to a natural person, state his or her full name and present or last known business or residence address, his/her present or last known business and residence telephone numbers, his/her last known or present business affiliation, and his/her position and business affiliation at the time in question;

(ii) When used with reference to any entity other than a natural person, state:

(a) its full name;

(b) the address of its principal place of business;

(c) if it is a corporation, the jurisdiction under the laws of which it has been organized and the date of such organization, if known;

(d) in the case of an entity other than a corporation, the name of its principals, if known; and

(e) the identity of all individuals who acted or who authorized another to act on its behalf in connection with the matter referred to.

(iii) When used with reference to a document, state:

(a) the nature of the document (*e.g.*, letter, contract, memorandum);

(b) its date;

(c) identify its author, each addressee, and each other person who received or read the document;

(d) its present location or custodian;

(e) its disposition, if any such document was but is no longer in your possession or subject to your control; and

(f) its substance.

(iv) When used with reference to an oral communication:

- (a) state the place of communication and the date on which it occurred;
- (b) identify each person who was present when it was made; and
- (c) identify, in accordance with paragraph d (iii) above, each document which refers thereto or which was prepared as a result of the oral communication.

(v) When used with reference to a "communication", include both documents and oral communications.

D. "Describe and explain in detail" means to include with respect to any communication, event or document: (1) the name and address of any person or persons involved, including without limitation any named or intended recipient and any witness or witnesses; (2) the date(s), time(s) and substance thereof; and (3) identification of any document or other artifact embodying, reflecting or substantiating such communication or event.

E. "You" or "your" means the Defendant receiving this Interrogatory, including any representative, agent, officer or authorized employee thereof.

F. Unless otherwise specified, "Plaintiff" means CITY OF NEOGA.

G. If you know of any documents or information, but cannot give either in whole or in part the specific information called for by a particular interrogatory to the extent requested, give the best information which you have on the subject.

H. If any interrogatory or part thereof is objected to on the ground that the information sought or the documents required to be supplied are privileged, identify the interrogatory with respect to which such claim is made and the nature of the alleged privilege and the precise factual basis therefor.

I. Specific definitions relating to this Petition.

- (1) Illinois Central Railroad Company may be referred to herein as "ICRR".
- (2) The Illinois Commerce Commission may be referred to herein as "ICC".
- (3) The City of Neoga, a municipal corporation within the State of Illinois, may be referred to as "Neoga".
- (4) Neoga Township, a township in the County of Cumberland, State of Illinois, generally described as portions of T.10-11 N.-R.7-8E and T.10N.-R.7-8E., the township within which the requested closings are located,

may be referred to as "Neoga Township".

- (5) United States Route 45 may be referred to as "Route 45".
- (6) County Road 1 which travels generally east and west into, through and out of Neoga may be referred to as "Trowbridge Road".
- (7) The Neoga Cemetery largely owned and operated by Neoga, which exists south of Neoga, may be referred to as "Cemetery".
- (8) County Roads 800, 850, 900 and 950, all of which cross the ICRR tracks to meet Route 45 may be referred to by reference to the number of each township road.
- (9) The railroad crossing at 950, identified by the railroad as "TR67" may be referred to as 950 crossing or TR67 crossing.
- (10) The railroad crossing at 900, identified by the railroad as "TR85" may be referred to as 900 crossing or TR85 crossing.
- (11) The railroad crossing at 850, identified by the railroad as "TR85A" may be referred to as 850 crossing or TR85A crossing.
- (12) Property owned by Michael P. O'Neil west of the ICRR tracks, north of 950 and the cemetery and south of Neoga shall be referred to as "O'Neil Property".
- (13) Property west of the ICRR tracks north of 900 and south of 950 owned by Everett Fearday shall be referred to as the "Fearday Property".
- (14) Property west of the ICRR tracks north of 850 and south of 900 owned by Clara Walk shall be referred to as the "Walk Property".
- (15) The requirement that in order to close a crossing in an unincorporated area one must be able to drive from one side of the closed crossing to the other side of the closed crossing in no less than four miles may be referred to as the "Four Mile Rule".
- (16) The requirement that in order to close a crossing in an incorporated area one must be able to drive from one side of the closed crossing to the other side of the closed crossing in no less than three quarters of a mile may be referred to as the "Quarter Mile Rule".

## SPECIFIC INTERROGATORIES

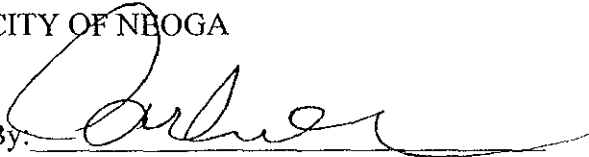
INTERROGATORY NO. 1: To what extent has the ICRR completed horizontal and vertical control data concerning a survey at the locations where they intend the new access roads to be completed? Is such data sufficient to arrive at an estimate of cost of construction? What are the components of and total cost of construction of each road?

ANSWER:

INTERROGATORY NO. 2: How often and for how long is a train expected to block each intersection on a daily and on a monthly basis?

ANSWER:

CITY OF NBOGA

By:   
Carl M. Webber (ARDC No.2954737)

Carl M. Webber  
WEBBER & THIES, P.C.  
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Urbana, IL 61801  
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